

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS,  
EASTERN DIVISION**

CHARLES C. PATTERSON, on his behalf )  
of himself and others similarly situated )  
Plaintiffs ) 12-cv-1216  
v. )  
Judge Coleman  
LEADING EDGE RECOVERY )  
SOLUTIONS, LLC )  
Defendant )

**DEFENDANT'S MOTION TO DISMISS**

NOW COMES Defendant, LEADING EDGE RECOVERY SOLUTIONS, LLC (“Leading Edge”) by and through its undersigned attorneys, and pursuant to FRCP 12(b)(1) moves to dismiss Counts I and II of Plaintiff’s Complaint based upon the absence of Article III standing, and in the alternative, pursuant to FRCP 12(b)(6) moves to dismiss Count I for failure to state a claim. In support of these motions, Leading Edge states the following:

1. This case involves a two count Complaint. Defendant Leading Edge is a debt collection agency. Count I asserts individual and class based claims under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”). Count II asserts individual claims under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (“FDCPA”).

2. As to Count I, Plaintiff claims that and that it violated the TCPA by making a *single* an auto-dialed call to Plaintiff’s cell phone without his consent. Plaintiff, however, has failed to allege that he suffered any actual damages as a result of Defendant’s conduct. At the present time, the Supreme Court is poised to rule on a similar argument where a plaintiff has failed to allege any damages as a result of an alleged Real Estate Settlement Procedures Act violation. Accordingly, this case should be dismissed for failing to satisfy Article III standing.

3. Plaintiff's FDCPA claim should also be dismissed because he has failed to allege that he suffered any actual damages.

4. Alternately, dismissal is proper under FRCP 12(b)(6) because Plaintiff has failed to properly set forth a violation of the TCPA.

WHEREFORE, Defendant respectfully that this Honorable Court dismiss Plaintiff's Complaint with prejudice, or alternatively, stay this case.

By: /s/James C. Vlahakis

David M. Schultz

James C. Vlahakis

One of the Attorneys for Defendant

LEADING EDGE RECOVERY SOLUTIONS, LLC

David M. Schultz

James C. Vlahakis

HINSHAW & CULBERTSON LLP

222 N. LaSalle Street, Suite 300

Chicago, Illinois 60601-1081

Phone No: (312) 704-3000

[dschutlz@hinshawlaw.com](mailto:dschutlz@hinshawlaw.com)

[jvhakas@hinshawlaw.com](mailto:jvhakas@hinshawlaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on April 6, 2012, I electronically filed the above document with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to all counsel of record.

By: s/ James C. Vlahakis  
One of the Attorneys for Defendant